

MULTIMEDIA



UNIVERSITY

STUDENT IDENTIFICATION NO

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# MULTIMEDIA UNIVERSITY

## FINAL EXAMINATION

T2, 2019/ 2020

### BIR7104 – INDUSTRIAL RELATIONS

(All Sections/ Groups)

20th JANUARY 2020

9.00 a.m – 12.00 p.m

(3 Hours)

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#### INSTRUCTIONS TO STUDENTS

1. This question paper consists of **THREE (3)** pages (including the cover page).
2. Answer **ALL** questions. The marks distributions are given in parentheses.
3. Write all your answers in the Answer Booklet provided.

**QUESTION 1**

*If the employer is guilty of conduct which is a significant breach going to the root of the contract of employment, or which shows that the employer no longer intends to be bound by one or more of the essential terms of the contract, then the employee is entitled to treat himself as discharged from any further performance*

*Western Excavating (EGG) Ltd v. Sharp [1978]*

Discuss the above judgement in relation to the doctrine of constructive dismissal in Malaysia. You should discuss at length and analyse the elements of constructive dismissal that are needed to convince the court that the workman has a successful claim for wrongful dismissal against his Employer.

**(25 Marks)**

**QUESTION 2**

Dr. Ali is a doctor with Assante Medical Centre (AMC), a private hospital based in Kuala Lumpur. He has been working with the hospital for the past 30 years as a heart specialist. He goes to the hospital every day and sees patients and performs operations as and when required at the hospital's operating theatre, assisted by the staff of the hospital and using the hospital's equipment. He earns a salary of RM 50 000 a month and AMC contributes to his Employee Provident Fund and makes salary deductions for his income tax returns monthly.

Dr. Ali is also a consultant surgeon with City Medical Centre (CMC), another private hospital in Kuala Lumpur. He only goes to CMC as and when he is asked to do so and performs operations on an *ad hoc* basis. Patients pay his fees directly to Dr. Ali, out of which he pays CMC for the use of equipment, operating theatre and staff.

**Continued.....**

In January 2019, Dr. Ali receives notice from both AMC and CMC that they are terminating his services with both hospitals as they are merging into one common private hospital and the new management is bringing in their own team.

Advise Dr.Ali as to his legal rights under industrial relations.

(25 Marks)

### **QUESTION 3**

Explain at length what is meant by *management prerogative* clause in relation to collective bargaining. Set out the exceptions to this clause and support your answer with the relevant provisions of the law.

(25 Marks)

### **QUESTION 4**

Set out and explain at length S.12 and S.15 of the **Trade Unions Act 1959**

(25 Marks)

**End of Paper**